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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,470	03/25/2004	Steven M. Hansen	AD7006USNA	8340

23906 7590 03/19/2008  
E I DU PONT DE NEMOURS AND COMPANY  
LEGAL PATENT RECORDS CENTER  
BARLEY MILL PLAZA 25/1122B  
4417 LANCASTER PIKE  
WILMINGTON, DE 19805

EXAMINER
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ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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03/19/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTO-Legal.PRC@usa.dupont.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/809,470	<b>Applicant(s)</b> HANSEN ET AL.	
	<b>Examiner</b> Irina S. Zemel	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 December 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 30-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 30-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

Claims 1-8, 11-13, 30-31 are rejected under 35 U.S.C. 103(a) as obvious over WO 02/0837794 to E. I. DuPont De Nemours, (hereinafter "DuPont").

The rejection stands as per reason of record. It is noted that no amendment have been presented after the Final office action of 8-21-2007.

Claims 9-10 and 32 are rejected under 35 U.S.C. 103(a) as obvious over DuPont in combination with Vercesi .

The rejection stands as per reason of record

### ***Response to Arguments***

Applicant's arguments filed 2-19-2007 have been fully considered but they are not persuasive. The applicants presented no new argument at this time. All of the arguments were substantially answered in the Advisory action of 12-14-2007. Specifically, as noted in the referenced Advisory action, applicants, argued that the cited references do not disclose the claimed size fibers. The applicants base their arguments on the selective disclosures of the reference, i.e., the mid point of average dimensions of the fibers disclosed in each of the references. However, the examiner point out once again, that the disclosure of the cited reference is not limited to the average disclosed size, and the references expressly or implicitly disclose other sizes, such as lower limitation of the length, and aspect ratio that correspond to the claimed parameters, and

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also disclose possibility of variations in BET. Specifically, the DuPont reference states that BET higher than 6 m<sup>2</sup>/g is desired, making the claimed limitations of any higher BET obvious. Thus, comparing average sizes of the claimed fibers with the average size of the disclosed size is not proper as neither the disclosure of the references, not the claimed fibers are limited to any one specific size and define a whole broad range of sizes, including end points and anything in between. In addition, it is noted that the disclosure of the instant application refers to the claimed BET size and other claimed dimension as mere approximation expressly stating on page 4 that "these dimensions are approximation only". The applicants, once again, provided absolutely no evidence of unexpected results that can be attributed to the use of the fibers with the dimensions as claimed as compared to the products using preferred embodiments of the cited references. Thus, the claimed fiber dimensions are still considered to have been obvious from the expressed disclosure of the references although those disclosed dimensions may be non-preferred embodiments disclosed in the references.

In addition, the instant specification also expressly states (also on page 4) that the term "microfibers" is used for microfibers whether or not they are in the form of slurry. This disclosure is specifically relevant to the applicants arguments that the Vercesi reference combines the fibers during the extrusion process, while the claimed invention uses pulp slurry incorporated into the polymer during the polymer formation. It is noted that not only incorporation of a given filler before or during the polymer formation is notoriously known in the art of thermoplastic polymer with known and expected results (one of which is better filler distribution in the polymer), The process, the claims as

presented are drawn to a product, not a process. The referenced process steps are only relevant to the claimed product recited in a "product-by-process" format only to the extent that the product obtained by such process would have been patentable distinct (or different in a non-obvious way) from the disclosed product. Although is further noted that the claimed process steps appears to be the preferred embodiment as disclosed by the instant specification, there is absolutely no evidence on the record that incorporation of a fiber slurry during the polymerization step results in an unobvious product or unobvious properties. As noted above - better dispersion of the filler is a completely expected result.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Irina S. Zemel/  
Primary Examiner, Art Unit 1796

/I.Zemel/ Irina S. Zemel  
Primary Examiner  
Art Unit 1796

ISZ